

Federal Aviation Administration, DOT

§ 65.46a

tower may act at each operating position for which he has qualified, under the supervision of an operator holding a facility rating for that control tower.

[Doc. No. 10193, 35 FR 12326, Aug. 1, 1970, as amended by Amdt. 65-16, 35 FR 14075, Sept. 4, 1970]

§ 65.46 Use of prohibited drugs.

(a) The following definitions apply for the purposes of this section:

(1) An *employee* is a person who performs an air traffic control function for an employer. For the purpose of this section, a person who performs such a function pursuant to a contract with an employer is considered to be performing that function for the employer.

(2) An "employer" means an air traffic control facility not operated by the FAA or by or under contract to the U.S. military that employs a person to perform an air traffic control function.

(b) Each employer shall provide each employee performing a function listed in appendix I to part 121 of this chapter and his or her supervisor with the training specified in that appendix. No employer may use any contractor to perform an air traffic control function unless that contractor provides each of its employees performing that function for the employer and his or her supervisor with the training specified in that appendix.

(c) No employer may knowingly use any person to perform, nor may any person perform for an employer, either directly or by contract, any air traffic control function while that person has a prohibited drug, as defined in appendix I to part 121 of this chapter, in his or her system.

(d) No employer shall knowingly use any person to perform, nor may any person perform for an employer, either directly or by contract, any air traffic control function if the person has a verified positive drug test result on or has refused to submit to a drug test required by appendix I to part 121 of this chapter and the person has not met the requirements of appendix I to part 121 of this chapter for returning to the performance of safety-sensitive duties.

(e) Each employer shall test each of its employees who performs any air traffic control function in accordance

with appendix I to part 121 of this chapter. No employer may use any contractor to perform any air traffic control function unless that contractor tests each employee performing such a function for the employer in accordance with that appendix.

[Doc. No. 25148, 53 FR 47056, Nov. 21, 1988, as amended by Amdt. 65-38, 59 FR 42927, Aug. 19, 1994]

§ 65.46a Misuse of alcohol.

(a) This section applies to employees who perform air traffic control duties directly or by contract for an employer that is an air traffic control facility not operated by the FAA or the U.S. military (*covered employees*).

(b) *Alcohol concentration.* No covered employee shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater. No employer having actual knowledge that an employee has an alcohol concentration of 0.04 or greater shall permit the employee to perform or continue to perform safety-sensitive functions.

(c) *On-duty use.* No covered employee shall use alcohol while performing safety-sensitive functions. No employer having actual knowledge that a covered employee is using alcohol while performing safety-sensitive functions shall permit the employee to perform or continue to perform safety-sensitive functions.

(d) *Pre-duty use.* No covered employee shall perform air traffic control duties within 8 hours after using alcohol. No employer having actual knowledge that such an employee has used alcohol within 8 hours shall permit the employee to perform or continue to perform air traffic control duties.

(e) *Use following an accident.* No covered employee who has actual knowledge of an accident involving an aircraft for which he or she performed a safety-sensitive function at or near the time of the accident shall use alcohol for 8 hours following the accident, unless he or she has been given a post-accident test under appendix J to part 121 of this chapter, or the employer has determined that the employee's performance could not have contributed to the accident.